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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

THE ESTATE OF RICHARD RISHER, JR. and LISA SIMPSON, Plaintiffs, v. CITY OF LOS ANGELES, FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ, RICHARD RISHER, SR., and Does 1 through 10, inclusive Defendants.	**Case No: 5:17-CV-00995** **PLAINTIFFS' COMPLAINT FOR DAMAGES** 1. VIOLATIONS OF THE FOURTH AND FOURTEENTH AMENDMENTS OF THE FEDERAL CONSTITUTION 2. DEPRIVATION OF CIVIL RIGHTS UNDER COLOR OF LAW—MONELL CLAIM 3. VIOLATION OF 42 U.S.C. § 1983—SUBSTANTIVE DUE PROCESS; 4. DEPRIVATION OF CIVIL RIGHTS—FAILURE TO PROVIDE MEDICAL CARE 5. ASSAULT & BATTERY; and 6. WRONGFUL DEATH 7. VIOLATION OF CAL. CIV. CODE § 52.1—CIVIL RIGHTS **DEMAND FOR JURY TRIAL**

INTRODUCTION

1. The purpose of this lawsuit is to set forth the true facts regarding RICHARD RISHER, JR.'S encounter with the Defendant CITY OF LOS ANGELES and her Los Angeles Police Department (LAPD) officers, Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, on July 25, 2016. On that day, Defendant CITY OF LOS ANGELES and her LAPD officers, Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, stopped, detained, and used deadly force against RICHARD RISHER, JR. and killed him.

VENUE AND JURISDICTION

2. This action is brought pursuant 42 U.S.C. §1983, the Fourth and Fourteenth Amendments of the United States Constitution. Jurisdiction is founded on 29 U.S.C.§§1331 and 1343(1), (2), (3) and (4), and the aforementioned statutory and Constitutional provisions.

3. Venue is proper in the Central District of California. The facts underlying all claims and injuries took place within the geographic jurisdiction of the Central District.

4. The Plaintiff did comply with the California Tort Claims Act by filing a claim with Defendant City of Los Angeles, said claims being duly rejected by the defendant.

PARTIES

5. Plaintiff, THE ESTATE OF RICHARD RISHER, JR., appears by and through its successor-in-interest and representative LISA SIMPSON.

6. Plaintiff LISA SIMPSON is, and was an individual residing in San Bernardino, California. Plaintiff LISA SIMPSON

is the natural mother of decedent RICHARD RISHER, JR. and sues here both in her individual capacity and as successor-in-interest for THE ESTATE OF RICHARD RISHER, JR.

7. Defendant CITY OF LOS ANGELES, (hereinafter sometimes "CITY") is and was, at all times relevant to the matters alleged in this complaint, a public entity duly organized under the laws of the State of California, County of Los Angeles, and the public employer of the police officers named as defendants in this action.

8. Defendant FRANCISCO ZARAGOZA is a police officer working for the LAPD. He is sued in his official and individual capacity. At all times relevant to the present lawsuit, he was acting under the color of law, to wit, under the color of the ordinances, regulations, policies, customs, and usages of Defendant CITY, as well as under the color of the statutes and regulations of the State of California.

9. Defendant ISAAC FERNANDEZ, is a police officer working for the LAPD. He is sued in his official and individual capacity. At all times relevant to the present lawsuit, he was acting under the color of law, to wit, under the color of the ordinances, regulations, policies, customs, and usages of Defendant CITY, as well as under the color of the statutes and regulations of the State of California.

10. Defendant JOSE CHAVEZ, is a police officer working for the LAPD. He is sued in his official and individual capacity. At all times relevant to the present lawsuit, he was acting under the color of law, to wit, under the color of the ordinances, regulations, policies, customs, and usages of Defendant CITY, as

well as under the color of the statutes and regulations of the State of California.

11. Defendant RICHARD RISHER, SR. is the natural father of RICHARD RISHER, JR. and is named as a nominal defendant.

12. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as DOES 1 through 10, inclusive, and therefore sue these Defendants by such fictitious names. DOES 1 through 10, and each of them, were duly appointed law enforcement officers, sergeants, lieutenants, detectives, deputies, officials, executives or policymakers, including those officers who on the date plead stopped, detained, arrested or used physical force on the Plaintiff, of the LAPD, a department and subdivision of Defendant CITY. Plaintiffs will amend this complaint to allege said Defendants' true names and capacities when ascertained. Plaintiffs are informed and believe and thereon allege, that each of the fictitiously named Defendants are responsible in some manner for the occurrences herein alleged, and that Plaintiffs' injuries as herein alleged were proximately caused by the acts or omissions of said fictitiously named Defendants.

13. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, each of the Defendants were acting within the course and scope of their employment or agency with the Defendant CITY, which is liable in respondeat superior pursuant to section 815.2, et.seq. of the California Government Code for the acts of said Defendants that are alleged herein. At all times mentioned herein, each Defendant was also acting under the color of law under the laws

of the City of Los Angeles, County of Los Angeles and the State of California. Said Defendants are sued individually and in their capacity as herein and above defined employees, agents and representatives of Defendant CITY.

14. Each of the Defendants caused and is responsible for the unlawful conduct and resulting by, inter alia, personally participating in the conduct, or acting jointly and in concert with others who did so; by authorizing, acquiescing or failing to take action to prevent the unlawful conduct; by promulgating policies and procedures pursuant to which the unlawful conduct occurred; by failing and refusing, with deliberate indifference to Plaintiffs' rights, to initiate and maintain adequate supervision and/or training; and, by ratifying the unlawful conduct that occurred by agents and peace officers under their direction and control. Whenever and wherever reference is made in this Complaint to any act by a Defendant, such allegation and reference shall also be deemed to mean the acts and failures to act of each Defendant individually, jointly and severally. They are sued in their individual and official capacities and in some manner are responsible for the acts and omissions alleged herein. Plaintiffs will ask leave of this Court to amend this Complaint to allege such name and responsibility when that information is ascertained. Each of the Defendants is the agent of the other.

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STATEMENT OF FACTS COMMON TO ALL CAUSES OF ACTION

15. On or about July 25, 2016, at approximately 11:00 p.m., decedent RICHARD RISHER, JR. was lawfully present near 112th St. and Antwerp St. in Los Angeles, CA.

16. Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ shot and killed RICHARD RISHER, JR.

17. At the time of the shooting, Richard Risher, Jr. was not a threat to anyone, including said Defendants as he did not have any weapon in either of his hands at the time he was shot, nor did he display any behavior, or take any physical action, that would lead a reasonable officer to believe that his or her life or the life of another was in danger or in threat of eminent harm, such that would justify using deadly force.

18. At the time of his death, RICHARD RISHER, JR. was 18 years old and in good health.

19. Prior to this shooting, Defendant FRANCISCO ZARAGOZA was involved in at least two prior shootings.

20. Defendant CITY was long aware of the propensity of their police officers, including Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ and JOSE CHAVEZ, to callously and recklessly use excessive force against members of the public, particularly targeting minority groups, and to engage in deceitful conduct. The following incidents illustrate the use of excessive deadly force, all of which are pursuant to these unconstitutional customs, policies and practices of the LAPD:

21. On February 3, 2007, six LAPD officers used excessive force against Mauricio Cornejo when the officers severely beat Mauricio Cornejo after he fled a traffic stop. At no time prior

to being shot by the LAPD officers did Mauricio Cornejo display any behavior, or take any physical action, that would lead a reasonable officer to believe that his or her life or the life of another was in danger or in threat of eminent harm, such that would justify using deadly force. The LAPD officers were neither disciplined nor required to undergo any retraining as a result of their use of deadly force against Mauricio Cornejo. Defendant CITY concluded that the use of force against Mauricio Cornejo was justified and within and consistent with LAPD policy.

22. On January 14, 2011, LAPD Officer Aaron Goff used excessive force when he shot and killed Reginald Doucet, Jr. At the time of the shooting, Reginald Doucet, Jr. was unarmed, naked and experiencing a psychotic episode. Officer Goff shot Reginald Doucet, Jr. twice in the back. LAPD Officer Goff was neither disciplined nor required to undergo any retraining a result of his use of deadly force against Reginald Doucet, Jr. Defendant CITY concluded that the use of force against Reginald Doucet, Jr. was justified and within and consistent with LAPD policy.

23. On May 10, 2011, LAPD Officer Arthur Gamboa used excessive force when he shot and killed Anthony Garrett. Officer Gamboa shot Arthur Garrett twice in the back. Although the Board of Police Commissioners determined that the pre-shooting tactics and shooting were outside department policy, Officer Gamboa was neither disciplined nor required to undergo any retraining as a result of his use of excessive deadly force against Arthur Garrett.

24. On July 22, 2011, LAPD Officer Fernando Ortega used excessive force against Maria del Carmen Ruvalcaba when he shot and killed her in her home. At no time prior to being shot by Officer Ortega did Mauricio Cornejo display any behavior, or take any physical action, that would lead a reasonable officer to believe that his or her life or the life of another was in danger or in threat of eminent harm, such that would justify using deadly force. Officer Ortega was neither disciplined nor required to undergo any retraining as a result of his use of deadly force against Maria del Carmen Ruvalcaba. Defendant CITY concluded that the shooting of Maria del Carmen Ruvalcaba by Officer Ortega was justified and within and consistent with LAPD policy.

25. On February 2, 2013, LAPD officers used excessive force against Sergio Pina. Sergio Pina was shot multiple times despite being unarmed and posing no threat of death or serious bodily injury to any officer or other person at the time that he was shot. None of the officers involved in the shooting of Sergio Pina were disciplined or required to undergo any re-training as a result of their use of excessive deadly force against Sergio Pina. Defendant CITY declared the shooting of Sergio Pina was justified and within and consistent with LAPD policy.

26. On March 19, 2013, LAPD Officers Gerald Adams, Houston Stauber, Alfredo Morales and Shaun Hillman used excessive force against David Martinez when they shot him multiple times, killing him. At the time of the officers' use of excessive deadly force, David Martinez was running away from the officers unarmed and posed no threat of death or serious bodily injury to the officers

or any other person. None of the officers involved in the shooting of David Martinez were disciplined or required to undergo any re-training as a result of their use of excessive deadly force. Defendant CITY declared the shooting of David Martinez to be justified and within and consistent with LAPD policy.

27. On March 5, 2015, LAPD Officer Brian Van Gorden used excessive force against Sergio Navas when he shot and killed him. Officer Van Gorden and Sergio Navas were engaged in a vehicle pursuit which ended in Officer Van Gorden shooting and killing Sergio Navas. At the time that Officer Van Gorden fired, Sergio Navas was unarmed and posed no threat of death or serious bodily injury to the shooting officer, to any of the other officers on scene, or to anyone else. The Board of Police Commissioners determined that the pre-shooting tactics and shooting were outside department policy.

28. On May 5, 2015, LAPD Officer Clifford Proctor used excessive force against Brendon Glenn when he shot and killed him. Officer Proctor and Brendon Glenn were engaged in an altercation which ended in Officer Proctor shooting and killing Brendon Glenn. At the time that Officer Proctor fired, Brendon Glenn was unarmed and posed no threat of death or serious bodily injury to the shooting officer, to any of the other officers on scene, or to anyone else. The Board of Police Commissioners determined that the pre-shooting tactics and shooting were outside the department’s policy.

29. In 2016, the Board of Police Commissioners required the LAPD to reevaluate its excessive force policies in an effort to

reduce the number of police shootings by revamping department policies, revising training, and emphasizing the use of less-lethal devices.

FIRST CLAIM FOR RELIEF

DEPRIVATION OF CIVIL RIGHTS UNDER COLOR OF LAW (42 USC §§ 1983 and 1988 including Wrongful Death and Survival under Federal Violation of Civil Rights)

[By Plaintiffs Against All Defendants]

30. Plaintiffs hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

31. This cause of action is to redress a deprivation, under color of authority, statute, ordinance, regulation, policy, custom, practice or usage of a right, privilege or immunity secured to Plaintiffs by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution and the Constitution and laws of the State of California.

32. On or before the date of the incident identified above, RICHARD RISHER, JR. possessed the rights, guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution, to be free from unreasonable searches, seizures, excessive force by agents of the government, deprivation of liberty without due process of law, and the right to privacy, among others.

33. At all times relevant hereto, decedent RICHARD RISHER, JR. was not a threat to anyone or anything.

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34. Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, without cause or legal provocation, exercised the use of deadly force against RICHARD RISHER, JR. as plead above.

35. Each of Defendants' conduct was entirely unjustified. The conduct constitutes, among other things, an unjustified search and seizure through unreasonable and excessive use of force and unlawful arrest/seizure.

36. Said Defendants subjected the Plaintiffs to the aforementioned deprivations by either actual malice or deliberate indifference and disregard of Plaintiffs' civil rights.

37. Said Defendants acted at all times herein knowing full well that the established practices, customs, procedures and policies of Defendant CITY and the LAPD would allow a cover-up of this misconduct and allow the continued use of illegal and excessive force in violation of the Fourth and Fourteenth Amendment of the Constitution of the United States and the laws of the State of California.

38. After being shot by said Defendants, RICHARD RISHER, JR. endured great physical and emotional pain and suffering.

39. As a direct and proximate result of the aforementioned acts of said Defendants, and each of them, RICHARD RISHER, JR. received wounds and injuries to his body and mind which caused him to be unconstitutionally deprived of his personal liberties.

40. The acts of Defendants, and each of them, were so evil and egregious that said conduct, because of its nature, shocked the conscience and represented a violation of the Fourteenth Amendment's substantive due process protections.

41. The conduct of Defendants was willful, wanton, malicious and done with an evil motive, and intent, and reckless disregard for the rights and safety of Plaintiffs and therefore warrants the imposition of exemplary and punitive damages against said Defendants.

SECOND CLAIM FOR RELIEF

DEPRIVATION OF CIVIL RIGHTS UNDER COLOR OF LAW [MONELL CLAIM]

(42 USC §§ 1983 and 1988 including Wrongful Death and Survival under Federal Violation of Civil Rights)

[By Plaintiffs Against Defendant CITY]

42. Plaintiffs hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

43. At the time of the shooting, as described above, Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ were acting within the course and scope of their duties as officers, employees, and representatives of the Defendant CITY and the LAPD, deprived decedent RICHARD RISHER, JR. of his right to be free from unreasonable seizure and excessive force, when said defendants unreasonably and without justification shot and killed him.

44. On and before July 2016, and prior to the killing of RICHARD RISHER, JR. Defendants CITY and DOES 1 through 10, and each of them, were aware that LAPD police officers, including Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, had engaged in a custom and practice of callous and reckless use of firearms and other misconduct, as summarized in the paragraphs above.

45. Defendants CITY, FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, and Does 1 through 10, and each of them, acting with deliberate indifference to the rights and liberties of the public in general, and of the present Plaintiffs, and of persons in RICHARD RISHER, JR.'s class, situation and comparable position in particular, knowingly maintained, enforced and applied customs and practices of:

(a) Encouraging, accommodating, or ratifying the shooting of residents;

(b) Encouraging, accommodating, or ratifying the use of excessive and unreasonable force, including deadly force;

(c) Encouraging, accommodating, or facilitating a "code of silence" among LAPD officers/supervisors, pursuant to which false reports were generated and excessive and unreasonable force was covered up;

(d) Employing and retraining, as police officers and other personnel, including individuals such as Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, who Defendant CITY knew or reasonably should have known had dangerous propensities for abusing their authority and for mistreating members of the public;

(e) Inadequately supervising, training, and disciplining LAPD police officers, including Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, who Defendant CITY knew or in the exercise of reasonable care should have known had the aforementioned propensities and character traits;

(f) Maintaining grossly inadequate procedures for reporting, supervising, investigating, reviewing, disciplining, and controlling intentional misconduct by officers;

(g) Assigning police officers with known histories of misconduct, including criminal conduct, in accordance with the LAPD custom of assigning these police officers to come into contact with members of the public;

(h) Ratifying wrongful conduct by police officers and supervisors which result in serious injuries and deaths to members of the public as well as civil litigation judgments and settlements by failing to implement corrective action to prevent repetition of the wrongful conduct; and

(i) Failing to discipline, investigate, and take corrective actions against LAPD police officers for misconduct, including, but not limited to, unlawful detention, excessive force, and false reports.

46. By reason of the aforementioned customs and practices, decedent RICHARD RISHER, JR. was severely injured and subjected to pain and suffering as alleged above in the First Claim for Relief.

47. Defendants CITY and DOES 1 through 10, with various other officials, whether named or unnamed, had either actual or constructive knowledge of the deficient policies, practices, and

customs alleged in the paragraphs above. Despite having knowledge, Defendant CITY and DOES 1 through 10 condoned, tolerated and, through actions and inactions, thereby ratified such customs and practices. Said Defendants also acted with deliberate indifference to the foreseeable effects and consequences of these policies with respect to the constitutional rights of Plaintiffs and other individuals similarly situated.

48. Plaintiffs are informed and believe, and thereon allege, that Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ each had a history and propensity for acts of the nature complained of herein and manifested such propensity prior to and during their employment and/or agency with Defendant CITY. Plaintiffs are further informed and believe, and thereon allege, that Defendants CITY and DOES 1 through 10, knew, or in the exercise of reasonable care should have known, of such prior history and propensity at the time such individuals were hired and/or during the time of their employment. These Defendants' disregard of this knowledge and/or failure to adequately investigate and discover and correct such facts caused the violation of Plaintiffs' constitutional rights.

49. The policies, practices, and customs implemented and maintained and still tolerated by Defendants CITY and DOES 1 through 10, and each of them, were affirmatively linked to and were a significant influential force behind the Plaintiffs' injuries.

50. By reason of the aforementioned acts and omissions, RICHARD RISHER, JR. was shot and killed by Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ.

THIRD CLAIM FOR RELIEF

SUBSTANTIVE DUE PROCESS

(42 USC § 1983)

[By Plaintiff LISA SIMPSON Against Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ, and DOES 1-10]

51. Plaintiffs hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

52. The substantive due process clause of the Fourteenth Amendment of the United States Constitution guarantees all persons the right to be free from unlawful state interference with their familial relations. 42 U.S.C. § 1983 provides a private right of action for conduct which violates this right.

53. As alleged above, the shooting and killing of RICHARD RISHER, JR. was unreasonable under the circumstances of the encounter. As such, the shooting and killing of RICHARD RISHER, JR. violated the constitutional limits on police use of deadly force in violation of the Fourth Amendment's limits on unreasonable seizures.

54. At the same time RICHARD RISHER, JR. was killed, the right of Plaintiff LISA SIMPSON to be free from police interference in her relationship with her son was violated.

55. The unreasonable conduct of Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ was the direct and proximate cause of the death of RICHARD RISHER, JR. As a result of the unreasonable conduct of these Defendant LISA SIMPOSON lost RICHARD RISHER, JR., as well as his love, affection, society and moral support.

56. The unreasonable conduct of these Defendants was willful and done with a deliberate disregard for the rights and safety of RICHARD RISHER, JR. and the present Plaintiff and therefore warrants the imposition of punitive damages as to Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ.

57. Accordingly, Defendants CITY and DOES 1 through 10 are liable to Plaintiffs for compensatory damages pursuant to 42 U.S.C. § 1983.

FOURTH CLAIM FOR RELIEF

DEPRIVATION OF CIVIL RIGHTS—FAILURE TO PROVIDE MEDICAL CARE

(42 USC § 1983)

[By Plaintiffs Against Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ, and DOES 1 through 10]

58. Plaintiffs hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

59. The denial of medical care by Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ, and DOES 1 through 10 deprived decedent RICHARD RISHER, JR. of his right to be secure in his person against unreasonable searches and seizures as guaranteed to decedent RICHARD RISHER, JR. under the Fourth Amendment of the United States Constitution and applied to state actors by the Fourteenth Amendment.

60. As a result, decedent RICHARD RISHER, JR. suffered extreme pain and suffering and eventually suffered a loss of life and earning capacity. Plaintiffs have also been deprived of the life-long love, companionship, comfort, support, society, care, and sustenance of decedent RICHARD RISHER, JR., and will

continue to be so deprived for the remainder of their lives. Plaintiffs are also claiming funeral and burial expenses and a loss of financial support.

61. Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ, and DOES 1 through 10 knew that failure to provide timely medical treatment to decedent RICHARD RISHER, JR. could result in further significant injury or the unnecessary and wanton infliction of pain, but disregarded that serious medical need, causing decedent RICHARD RISHER, JR. great bodily harm and death.

62. The conduct of Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ, and DOES 1 through 10 was willful, wanton, malicious, and done with reckless disregard for the rights and safety of decedent RICHARD RISHER, JR. and therefore warrants the imposition of exemplary and punitive damages as to Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ, and DOES 1 through 10.

FIFTH CLAIM FOR RELIEF

ASSAULT AND BATTERY

[By Plaintiffs Against Defendants CITY, FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ]

63. Plaintiffs hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

64. This cause of action arises under the general laws and Constitution of the State of California. Plaintiffs have complied with the California Tort Claims Act requirements.

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65. Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ assaulted and battered RICHARD RISHER, JR., as pleaded herein above, when said Defendants acted intentionally to cause, and did cause, said non-consensual, unprivileged, unjustified, excessive, harmful or offensive contact to the person of RICHARD RISHER, JR. by unreasonably and unjustly shooting and killing RICHARD RISHER, JR.

66. These acts were undertaken by Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ intentionally and without justification.

67. As a result of these deliberate and unjustified acts undertaken by Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, RICHARD RISHER, JR. endured great physical and emotional pain and suffering.

68. These deliberate and unjustified acts undertaken by Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ were willful and done with a deliberate disregard for the rights and safety of RICHARD RISHER, JR. and, therefore, warrant the imposition of punitive damages as to Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ.

69. Defendants CITY is liable to Plaintiffs for the acts of their public employees, the individual Defendants herein, for conduct and/or omissions herein alleged, pursuant to the doctrine of *respondeat superior*, codified at California Government Code § 815.2

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SIXTH CLAIM FOR RELIEF

WRONGFUL DEATH

[By Plaintiffs Against Defendants CITY, FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ, and DOES 1 through 10]

70. Plaintiffs hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

71. This cause of action arises under the general laws and Constitution of the State of California. Plaintiffs have complied with the California Tort Claims Act requirements.

72. Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, while working as police officers of the LAPD, and acting within the course and scope of their duties, employed negligent tactics and intentionally and/or without due care shot RICHARD RISHER, JR. The shooting resulted as a result of Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ unsafe, improper and negligent tactics. As a result of these intentional acts and negligence, RICHARD RISHER, JR. suffered serious injuries and lost his life. Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ had no legal or reasonable justification for their actions.

73. As a direct and proximate result of the conduct of Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, RICHARD RISHER, JR. lost his life. Plaintiffs have been deprived of the life-long love, affection, comfort, and society of RICHARD RISHER, JR., and will continue to be so deprived for the remainder of their natural lives. Plaintiffs were further caused

to pay funeral and burial expenses as a result of the conduct of Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ.

74. Defendants CITY OF LOS ANGELES is vicariously liable for the wrongful, intentional and/or negligent acts of Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, and DOES 1 through 10, pursuant to California Government Code § 815.2, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee’s act would subject him or her to liability.

SEVENTH CLAIM FOR RELIEF

Civil Rights Violations (Cal. Civ. Code § 52.1)

[By Plaintiffs Against Defendants CITY, FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, JOSE CHAVEZ and DOES 1 through 10]

75. Plaintiffs hereby repeat, re-allege and incorporate each and every allegation of each and every paragraph above as though fully set forth herein.

76. This cause of action arises under the general laws and Constitution of the State of California, including California Civil Code § 52.1 and California Government Code §§820 and 815.2.

77. As a result of the conduct of Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ and DOES 1 through 10, by the use of threats, intimidation, and coercions, interfered with Plaintiff ESTATE OF RICHARD RISHER, JR. exercise and enjoyment of the rights secured by the United States Constitution and other Federal laws, the Constitution and laws of the State of California, and their rights under California Civil Code § 52.1.

78. The California Civil Code § 52.1(b) authorizes a private right of action for damages to any person whose

constitutional rights are violated. Moreover, "a successful claim for excessive force under the Fourth Amendment provides the basis for a successful claim under § 52.1." *Chaudhry v. City of Los Angeles*, 751 F.3d 1096, 1105-06 (9th Cir. 2014); citing *Cameron v. Craig*, 713 F.3d 1012, 1022 (9thCir.2013) ("[T]he elements of the excessive force claim under § 52.1 are the same as under § 1983."); *Bender v. Cnty. of L.A.*, 217 Cal.App.4th 968, 976 (2013) ("an unlawful [seizure]—when accompanied by unnecessary, deliberate and excessive force—is [] within the protection of the Bane Act").

79. Defendants' actions as alleged herein violated Plaintiff ESTATE OF RICHARD RISHER, JR. constitutional rights against unreasonable searches and seizures and rights to familial association, all of which are protected by the Constitution of the State of California.

PRAYER

WHEREFORE, THE ESTATE OF RICHARD RISHER, JR. and LISA SIMPSON, an individual, pray for judgments against Defendants as follows:

1. General damages for violation of RICHARD RISHER, JR.'s Constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable search and seizure of his person and summary, cruel and unusual punishment in the sum according to proof at trial;

2. General damages for loss of life of RICHARD RISHER, JR., including the value of his life in an amount according to proof at the time of trial;

3. General damages for conscious physical pain, suffering and emotional trauma during the incident on July 25, 2016;

4. Loss of love, aide, comfort, society, companionship and affection due to the death of decedent RICHAR RISHER JR., according to proof at the time of trial;

5. Loss of economic support of decedent RICHARD RISHER, JR. in an amount according to proof at the time of trial;

6. Funeral and burial expenses according to proof;

7. Punitive damages to punish and make an example of the Defendants FRANCISCO ZARAGOZA, ISAAC FERNANDEZ, and JOSE CHAVEZ, in an amount according to proof at the time of trial;

8. Attorneys' fees, investigation expenses, costs and other expenses in vindication of Plaintiffs' Constitutional rights under 42 U.S.C. Section 1988 in an amount according to proof at the time of trial; and

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9. Such further relief as the Court deems just or proper.

DATED: May 17, 2017 **The Law Office of Christian F. Pereira**

Filer|Palmer, LLP

By: /s/ Christian F. Pereira
CHRISTIAN F. PEREIRA
Attorney for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury in this matter.

DATED: May 17, 2017 **The Law Office of Christian F. Pereira**

Filer|Palmer, LLP

By: /s/ Christian F. Pereira
CHRISTIAN F. PEREIRA
Attorney for Plaintiffs